IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5360 OF 2005

Vijay Sudam Todankar ..Petitioner.

Versus

Madhukar Sadanand Bhatkar & Ors. ..Respondents.

Mr. Vijay Patil with V.Y. Jadhav for the Petitioner.
Mr. S.V.Pitre for the Respondents Nos. 1 and 2.
Mr. Mahesh Subramaniam for the Respondents Nos.3 & 4.
Ms. V.Mhaispurkar, AGP for the Respondents Nos.5 & 6.

CORAM : S. A. BOBDE, J.
DATED : 30TH SEPTEMBER, 2005.

P.C.:

1. Rule, returnable forthwith. Mr.Patil, Advocate waives service of rule for respondents 1 and 2, Mr. M. Subramaniam, Advocate waives service of rule for the respondents 3 and 4 and Ms. Mhaispurkar, the learned AGP waives service of rule for respondents 5 and 6.

2. Heard by consent.

3. The petitioner has challenged the order of the Assistant Charity Commissioner dated 11.08.2005, refusing to interfere with the elections that were to be held on 17th of August, 2005. That date is over.

4. It is further contended by Mr. Patil, the learned counsel for the petitioner that the petitioner had sought a stay to the aforesaid elections on the ground that the elections have already been held on 31st of May, 2005.

5. In the circumstances, I am of view that it was not appropriate on the part of Assistant Charity Commissioner to dismiss the application without even issuing notice and without inquiry into the allegations of the petitioner. In any case, it is not necessary now to set aside the impugned order, which is passed below Exh. 3 and which refuses stay to the elections which were scheduled on 17th August, 2005.

6. The grievance is made by the learned counsel for the respondents that the petitioner has locked the Headmaster’s office. Mr. Patil, the learned counsel for the petitioner states that today the office is unlocked and open.

7. Whatever be the merits, I hereby consider it appropriate to direct that the office of the Headmaster shall be kept open in the interest of students, who have to submit their application forms for S.S.C. exams.

8. There is another aspect of the matter that if the version of the both the parties is to be accepted that two bodies with different Chairmen are functioning. This dispute can be resolved only if the change reports filed by both the parties are decided as expeditiously as possible. The change reports are pending before the Assistant Charity Commissioner, Raigad Region, Raigad (Alibag).

9. In view of the above facts and circumstances of the case, in the interest of justice, it would be appropriate to direct the Charity Commissioner to decide the main application i.e. I.A.No.475/2005 filed u/s. 41A of the B.P.T. Act, 1950, after hearing both the sides on merits as expeditiously as possible and in any case not later than six months from today. All contentions on merits are kept open.

10. The Assistant Charity Commissioner is also directed to dispose of the change reports as early as possible and in any case not later than six months from the date the parties appear before him. The parties are directed to appear before the Charity Commissioner on 24th October, 2005.

DT.30.09.05 (S.A.BOBDE,J)

.....